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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 2547 of 2006

Date of decision:24.4.2007

Maninder Kaur **...Petitioner**

Versus

State of Punjab and others **..Respondents**

CORAM: HON'BLE MR.JUSTICE M.M.KUMAR
HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. M.L.Sachdeva, Advocate for the petitioner
Mr. M.P.Goswami, Advocate for the respondents

RAJESH BINDAL, J.

Prayer in the present writ petition is for issuance of a direction to the official respondents to accord approval to appointment of the petitioner as Science Mistress against grant-in-aid post on which she was duly selected and appointed on November 24, 2000.

Facts, as pleaded in the petition, are that the petitioner passed her matriculation examination in 1993. Thereafter, she passed her Bachelor of Science examination from Guru Nanak Dev University in 1998. She got her B.Ed degree from the same University in 2000. She also qualified M.A. in English. Petitioner was offered appointment with effect from November 24, 2000 as Science Mistress. From the recommendations of the Institution, where petitioner is teaching, the Circle Education Officer, Jalandhar approved her case vide order dated July 2, 2001 (Annexure P-4) against grant-in-aid post in the pay scale of Rs. 5480-8925 with initial start of Rs. 5480/-. She was appointed against the post vacated by Smt. Meena Shekhari, who resigned on December 19, 1998. On November 9, 2002, respondent no.6 i.e. Management Committee, Sialkot National High School, Jalandhar City advertised the post of Science Master/Mistress against aided post. In response to which, petitioner applied vide her

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application dated November 15, 2002. It is evident from the record vide Annexure P-6 letter dated November 23, 2002 that the need for petitioner to have applied for the post must have arisen on account of some proposal to relieve her from the earlier post as she was stated to have been relieved on November 23, 2002, during the period of probation. In response to the advertisement dated November 9, 2002, the meeting of the Sub Committee for selection of teacher was held on 23.11.2002 in which after interviewing two candidates, who had appeared for the post, the petitioner was found to be most suitable candidate and accordingly recommended for appoint. The minutes of the meeting of Sub Committee were confirmed by the Managing Committee vide resolution dated November 23, 2002 (Annexure P-9) approving the appointment of the petitioner as Science Mistress. Accordingly, the petitioner was issued an appointment letter by the respondent-management on December 1, 2002 (Annexure P-10) and in response thereto the petitioner immediately joined her service. Thereafter, the case of the petitioner was sent to District Education Officer (S), Jalandhar for approval against a grant-in-aid post.

In response to a query raised by the D.E.O.(S), it was clarified by the respondent-management that incumbent working against the post of Science Mistress was relieved during the period of probation and that is how the post became vacant and was available for filling up. The approval was not accorded for the reasons that vide Memo dated January 8, 2003, it was decided that instructions regarding ban on recruitment dated 10/13.5.2002 would be applicable in recognised grant-in-aid schools as well. The case of the petitioner was resubmitted by the respondent school to the D.E.O.(S) vide letter dated October 28, 2005 whereafter even the petitioner made a representation to D.E.O.(S) for grant of approval. Because of non finalisation of the case of the petitioner by the official respondents, the petitioner has approached this Court by filing the present writ petition.

In response to the averments made in the writ petition, respondents contested the case by pleading that the petitioner having been

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selected and appointed on November 24, 2000 for which even the approval was accorded by the official respondents vide Memo dated July 2, 2001, there was no vacancy available with the respondent-school as on 8-9.11.2002 when the post was advertised as the petitioner was relieved from the duty only on November 23, 2002 during the period of probation. It was submitted that having considered the case on merits, the claim of the petitioner was rejected by the Circle Education Officer, Jalandhar Circle, vide order dated June 23, 2006 (Annexure R-1). The sum and substance of the order dated June 23, 2006 is also the same.

We have heard Shri M.L. Sachdeva, Advocate learned counsel for the petitioner and Shri M.P. Goswami, learned Deputy Advocate General, Punjab for the respondents and with their assistance have perused the paper book.

The only contention raised by learned counsel for the petitioner is that petitioner having applied against an advertisement issued, inviting applications for the post of Science Mistress against grant-in-aid post and having been duly selected by the Selection Committee constituted according to Rules, there is no reason with the official respondents to deny the approval thereof. It was further submitted that the plea raised by the respondents to deny the approval does not stand to reason. Though the petitioner was relieved from her earlier post on November 23, 2002 but as she had already been informed about this that is why the post was also advertised prior thereto. The claim of the petitioner could not be rejected merely on the ground that as on the date of advertisement, there was no vacancy. Sill further, it was submitted that official respondents had already granted approval for appointment of the petitioner against grant-in-aid post. Even if there is any technical flaw in the process, the petitioner should not be made to suffer on that account as official respondents had to release grant-in-aid against the post of Science Mistress and against that the petitioner is working. There is no extra financial burden on the State.

Learned Deputy Advocate General, Punjab appearing on behalf of the State reiterated the submissions made in the written statement while

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submitting that there being no vacancy on the date of advertisement, petitioner could not have been selected for the post. However, facts regarding the earlier selection of the petitioner and approval of her earlier appointment against grant-in-aid post were not disputed.

After hearing learned counsel for the parties, we are of the view that the claim made by the petitioner deserves to be accepted. It is well settled that once a person has been duly selected after advertisement and thorough consideration of the competing claims then the requirement of Articles 14 and 16(1) of the Constitution stands satisfied. Thereafter, appointment cannot be refused to a selected person without any reasonable cause viz., his antecedents were not found good etc. The rejection of the case for grant of approval for appointment of the petitioner against grant-in-aid post by the official respondents is not based on any sustainable rationale. No reasons have been brought on record as to why the petitioner was relieved on November 23, 2002 and was again selected on December 1, 2002 when even her earlier selection was also on regular basis and had already been approved by the official respondents. But still the fact remains that the official respondents had accorded approval of the petitioner against the grant-in-aid post earlier and it is the same post against which the petitioner was selected again. There is no extra financial burden on the State. No one has raised grouse that any irregularity was committed in the selection of the petitioner. In this view of the matter, we find that claim made by the petitioner is justified.

We, accordingly, direct official respondents to accord approval of the petitioner's appointment against grant-in-aid post from the date she was appointed. The needful be done within a period of two months from date of receipt of certified copy of this order. The writ petition is disposed of in the manner indicated above.

(Rajesh Bindal)
Judge

April 24, 2007 **(M.M.Kumar)**
Pka **Judge**